IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 692 of 2000
with
Special Civil Application No.701 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

P R KANANI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No.692 of 2000
Mr.R.A. Patel, for MR BR KYADA for Petitioner
Mr.Joshi, Assistant GOVERNMENT PLEADER,
for Respondent No. 1, 2

2. Special Civil Application No.701 of 2000
Mr.R.A. Patel, for MR BR KYADA for Petitioner
Mr.Joshi, Assistant GOVERNMENT PLEADER,
for Respondent No. 1, 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/06/2001

ORAL JUDGEMENT

1. Petitioners of both these Special Civil Applications are retired Government employees. Even though they have retired since long, the Department has not fixed their pension, which is required to be revised as per the revised pay scale, which the petitioners were getting at the time of superannuation.

2. The petitioner in each of the petitions was serving as Assistant Director of Agriculture under respondent No.2. So far as the petitioner in Special Civil Application No.692 of 2000 is concerned, he retired on superannuation on 29.2.1996. So far as the petitioner in Special Civil Application No.701 of 2000 is concerned, he retired on 31.12.1997. Till today, the Department has not finalised their pension papers, with the result that since considerable time, they are only getting provisional pension.

3. On behalf of the petitioners, representations were made from time to time to the Department. It seems that both the petitioners had applied for giving the benefit of stepping up in order to remove anomaly in their pay as compared to one Mr.M.B.Patel. Even a decision was also taken by the Department for removing the anomaly in the pay scale of the petitioners and to give the benefit of stepping up to the petitioners as compared to the pay of their junior one Mr.M.B. Patel. As per the letter of the Director of Agriculture dated 19.8.1999, which is at Annexure `B' page 12, it is stated that since pay verification of Mr.M.B. Patel has not been made, no decision was taken. The Director of Agriculture had written such letter to the Joint Director, by his letter dated 19.8.1999, requesting him to expedite the said question about pay verification of Mr.M.B. Patel (retd.). Petitioner of Special Civil Application No.692 of 2000 made a representation on 31.8.1999, requesting the Department to expedite his case regarding verification of pay and finalisation of his pension case. Ultimately, the present petitions have been filed.

4. Affidavit-in-reply has been filed on behalf of the respondents by the Assistant Administrative Officer. In the affidavit-in-reply, it is stated that the case of the petitioner is fair and necessary orders are also given by the State Authority. In the reply, mention is also made about pay verification of one Mr.M.B. Patel. In the affidavit-in-reply, it is stated that after completion of verification of the case of Mr.Patel, the

case of the petitioner would be complete within a short period.

5. It is required to be noted that the petitioners have retired since long and because of non-verification of pay of one Mr.M.B. Patel that the petitioners are not getting their pensionary benefits. It is argued on behalf of the petitioners that Mr.M.B. Patel is getting full pension and not provisional pension, and the petitioners are deprived of pensionary benefits. The aforesaid fact is not denied by the respondents.

6. Considering the fact that the petitioners have retired since long, the question of payment of pension is required to be concluded at the earliest. As after retirement, the petitioners are not required to wait for an inordinate period for getting pension, I direct the respondents to immediately finalise the pension case of both the petitioners herein. The said pensionary right and benefit of the petitioners is not dependent upon the pay fixation of Mr.Patel and if that verification is likely to take long time, that is no ground not to finalise the pensionary benefits of the present petitioners. The respondents are, therefore, directed not to delay the aforesaid proceedings further and the pension cases of both the petitioners should be immediately disposed of and after completing necessary formality for this purpose, the authorities are directed to start giving the pensionary benefits to the petitioners by fixing their pension appropriately and as per Rules. The respondents, therefore, are directed to complete the aforesaid pension case of each of the petitioners, latest by 1st August, 2001. The respondents are directed to fix the pension of each of the petitioners and, thereafter, to pay the same. The respondents are also directed to pay interest at the rate of 12% per annum to the petitioner as without any fault on the part of the petitioners, they have been denied their legitimate claim of getting pension at the time of their superannuation. The Authority may accordingly dispose of their pension cases, latest by 1st August, 2001 and immediately thereafter, start paying the benefit of pension, which they are entitled as per Rules and Regulations. Arrears, if any, which are required to be paid to the petitioners, may be paid within a period of one month from such decision, with the amount of interest stated above.

Petitions are accordingly allowed. Rule is made absolute to the aforeaid extent with no order as to

costs.

The petitioners will be at liberty to take direct service of this order.

Learned AGP is requested to communicate this order to the appropriate authority so that they can take prompt decision in these matters.

14th June, 2001 (P.B. Majmudar, J.)

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(apj)